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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION,

This document relates to:

ALL ACTIONS

CASE NO. 3:18-MD-02843-VC

**FACEBOOK, INC.'S NOTICE OF
APPEAL OF SPECIAL MASTER'S
ORDER RE: DEPOSITIONS OF FORMER
NAMED PLAINTIFFS**

1 Pursuant to Pretrial Order No. 40 (Dkt. 709), Facebook provides notice that it appeals the
2 following portions of the Special Master’s Order Re: Depositions of Former Named Plaintiffs
3 (Record at 001):

4 1. the Special Master’s finding that former Named Plaintiffs—interested individuals who
5 injected themselves into the litigation, asserted personal claims against Facebook, requested and pro-
6 duced thousands of documents in the litigation, responded to interrogatories, served as class repre-
7 sentatives for years, and voluntarily dismissed themselves without prejudice while purporting to re-
8 serve the right to rejoin at any time—cannot be deposed (*id.* at 005);

9 2. the Special Master’s finding that absent class member depositions of former Named
10 Plaintiffs would not be useful in determining whether class members have relevant privacy expecta-
11 tions, even though controlling authority makes clear that privacy expectations are subjective (*id.*);

12 3. the Special Master’s finding that Facebook’s records contain the most relevant infor-
13 mation as to how class members conducted themselves in relation to the claims at issue, even though
14 class members’ behavior both on and off of Facebook is relevant to their claims, Facebook cannot
15 know class members’ decision-making and thought processes regarding why they posted certain ma-
16 terials on and off of Facebook or which of those materials they view as “sensitive,” and Facebook is
17 entitled to explore what class members view as “sensitive” in assessing typicality (*id.*); and

18 4. the Special Master’s finding that the five former Named Plaintiff depositions Face-
19 book seeks would not be useful in testing whether absent class members have Article III standing be-
20 cause Facebook would purportedly need to depose millions of absent class members to adequately
21 test absent class member standing (*id.* at 006).

1 Dated: December 23, 2021

GIBSON, DUNN & CRUTCHER, LLP

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3 By: /s/ Deborah Stein
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